

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TEXAS STAR NUT AND FOOD CO.,	§	
INC. d/b/a NATURE’S EATS	§	
	§	
VS.	§	CASE NO. <u>5:21-CV-00444</u>
	§	
BARRINGTON PACKAGING SYSTEMS	§	
GROUP, INC.	§	

NOTICE OF REMOVAL

Barrington Packaging Systems Group, Inc. (“Barrington”) files this its Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. In support of this Notice, Barrington states as follows:

SUMMARY

1. Texas Star Nut and Food Co., Inc. d/b/a Nature’s Eats (“Nature’s Eats”) filed this action on April 1, 2021, in the 451st Judicial District Court, Kendall County, Texas in Cause No. 21-200, styled *Texas Star Nut and Food Co., Inc. d/b/a Nature’s Eats vs. Barrington Packaging Systems Group, Inc.* (the “State Court Action”). Pursuant to Sections 1441 and 1446 of Title 28 of the United States Code, Defendant Barrington removes this case to the United States District Court for the Western District of Texas, San Antonio Division, the Judicial District and Division in which this action is pending.

2. The allegations in the Plaintiff’s Original Petition confirm the basis for removal. Specifically, Plaintiff seeks “over \$250,000 but not more than \$1,000,000.” In addition, Nature’s Eats identified Defendant Barrington as a “foreign limited liability corporation.” In fact, Barrington is a Delaware corporation.

3. Attached hereto as **Exhibit A** is a copy of the Docket Sheet from the State Court Action, and true and correct copies of all pleadings filed in the State Court Action are attached within the contents of **Exhibit B**.

4. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b) because this notice is being filed within thirty (30) days of service. 28 U.S.C. § 1446(b)(2).

BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. This Court has original diversity jurisdiction over this civil action, pursuant to 28 U.S.C. § 1332, since the amount in controversy exceeds \$75,000, exclusive of interest and costs, and this is an action between citizens of different states.

A. There is complete diversity.

6. Plaintiff Nature's Eats is a Texas corporation with its principal place of business in Kendall County, Texas.

7. Defendant Barrington is a Delaware corporation.

8. Defendant Barrington is not a Texas corporation at this time and was not at the time this suit was filed in state court. Because there was and remains complete diversity of citizenship between the Defendant and the Plaintiff at the time this action was filed and at the time of this removal, this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

B. The amount in controversy exceeds \$75,000.00.

9. The amount in controversy exceeds the sum or value of \$75,000.00. This is expressly stated on page 1 of Plaintiff's Original Petition.

VENUE

10. Venue for removal is proper in this District and Division under 28 U.S.C. § 1441(a) because this district and division embrace the 451st Judicial District Court of Kendall County, Texas, the forum in which the removed action was pending.

11. While venue for removal is proper in this District and Division, this case should subsequently be transferred to the Northern District of Illinois, as the parties' contract calls for arbitration in Chicago, Illinois, which is located within the Northern District of Illinois. Upon transfer, the United States District Court for the Northern District of Illinois should compel this matter to arbitration as contractually agreed by the parties.

NOTICE

12. Concurrently with the filing of this Notice, Barrington will file a copy of this Notice of Removal with the Clerk of the 451th judicial District Court of Kendall County, Texas.

Respectfully submitted,

MARTIN & DROUGHT, P.C.

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By: /s/ Mathis B. Bishop

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument will be sent to the following attorneys of record via email:

Sylvan S. Lang, Jr.
Meagan M. Gillette
Lang Law Firm, PC
10500 Heritage Blvd., Ste. 200
San Antonio, Texas 78216
Email: sylvan@langfirm.com
meagan@langfirm.com

on this 4th day of May 2021.

/s/ Mathis B. Bishop
MATHIS B. BISHOP